

## Introduction

Despite little evidence that more women are offending or that women's offending is becoming more serious, the numbers of women imprisoned and the female prison population have risen significantly in recent years in western jurisdictions (Frost et al., 2006; McIvor, 2007). In 2007 an influential report by Baroness Corston highlighted the vulnerability of women in the criminal justice system in England and Wales and put forward a number of recommendations aimed at keeping vulnerable women out of custody (Corston, 2007). A Cross-departmental Criminal Justice Women's Strategy Unit was established to take forward the government response to the Corston Report and in February 2009, the Ministry of Justice announced the provision of £15.6m of new funding over two years for additional community-based services for female offenders and women 'at risk of' offending, with a focus on the development of specialist provision for women in the community and bail support services (Ministry of Justice, 2009). Acknowledging the often 'unsafe' and 'dislocated' lives experienced by many women in the criminal justice system, community provisions were viewed as more appropriate than prisons (Corston, 2007; Gelsthorpe et al, 2007) however, the location of these initiatives predominantly within the criminal justice system, retained an emphasis on their penal role (Malloch et al, 2008)

The recognition that urgent attention is required to address the alarming increase in the number of women in prison has been a recurrent concern to policy makers internationally. In Scotland, reflecting trends evidenced elsewhere, the average daily female prison population almost doubled between 1999-2000 and 2008-9, from 210 to 413 (Scottish Government, 2009). This increase has been accompanied by calls to

examine sentencing practices, amidst claims that women's offending has not increased in severity or frequency (McIvor, 2007). There has also been recognition that community penalties need to be used more effectively in relation to women, and that more thought needs to be given to ensuring that existing and emerging options are applicable to women, with gender-sensitive considerations incorporated into the development of provisions (Scottish Office, 2002).

Considerable attention has been given to reviewing the use of community penalties and custody for women in Scotland. A series of reviews, working groups and inter-agency forums (Scottish Office, 1998; Scottish Executive, 2002) concluded that the backgrounds of women who come into contact with the criminal justice system and the circumstances which lead to their offending (not least poverty and/or drug use) make prison, for the most part, an inappropriate and potentially damaging disposal. There has been a continued recognition in both Scotland and internationally that more needs to be done to keep women out of prison where possible, and to improve the conditions for those who are imprisoned (SCCCJ, 2006; Sheehan et al, 2007). However, these reviews were undertaken without any real challenge to the wider social context in which the punishment of women took place (see also Tombs, 2004). Indeed the Scottish Office review (1998: 42, emphasis added) stated that “*almost all women offenders could be **safely punished** in the community without major risk of harm to the general population*”. The broader political, social and ideological factors surrounding the criminalisation and punishment of women were not addressed.

Recent attention given to the wider criminal justice system in Scotland (Scottish Government, 2007, 2008; Scottish Prisons Commission, 2008) has similarly

concluded that community penalties should be used more often and to greater effect. The Criminal Justice and Licensing (Scotland) Act 2010, which introduced a new community sentence in Scotland – the Community Payback Order – and a presumption against short prison sentences in favour of appropriate sentences carried out in the community, came into effect on 1 February 2011<sup>1</sup>. However, as we argue here, this will only be effective for women if appropriate gender-relevant provisions exist.

A plethora of international research has illustrated that women's offending is often related to the wider circumstances of their lives, which are frequently characterised by addiction, experiences of poverty and social deprivation, mental health problems and all too often physical, mental and/or sexual abuse (Cook and Davies, 1999; Hannah-Moffat, 2001; Carlen, 2002; Bloom et al, 2003; Loucks, 2004; Corston, 2007). Therefore to address offending behaviour, it would seem that these potentially contributory factors should be addressed. They also need to be taken into account in the design and provision of community penalties as applied to women. Failure to do so means the differential impact of social control, both penal and non-penal, is unchallenged (Hutter and Williams, 1989; Howe, 1994).

### **Sentencing women to community penalties**

In Scotland, as in other jurisdictions, women make up a small proportion of all those who come to the attention of the courts as offenders (approximately 16%) and an even smaller proportion of the those given prison sentences (approximately 8%) (Scottish Government, 2010a). The relatively small number of women in prison reflects the

significantly lower incidence of offences committed by women, and also the severity of offending behaviour. Accordingly, the proportion of women who are sentenced to community penalties of one form or another is also significantly smaller than that of men. Statistics for 2008-9 show that women accounted for 12% of community service orders, 18% of probation orders and 23% of Drug Treatment and Testing Orders (DTTOs) (Scottish Government, 2010b). A broadly similar pattern of community sentencing by gender is found in England and Wales where women are more likely than men to receive community orders with supervision requirements and drug rehabilitation requirements while men are more likely to receive requirements to undertake unpaid work (Mair et al., 2007; Patel and Stanley, 2008).

It is evident that the criminal justice system in Scotland provides a range of innovative alternatives to custody. However they do not appear to be used to their full potential for women. Some community sentences are not particularly women-friendly (e.g. community service (Barker, 1993; Goodwin and McIvor, 2001) and DTTOs (Eley et al., 2002)). Women are proportionately more likely than men to be placed on a probation order, however the risk of breach for those with more chaotic lifestyles (and more entrenched difficulties in their lives) means that the intervention may ultimately result in a custodial sentence. While women are more likely to complete probation and community service orders than men, where breach proceedings are pursued, women are slightly more likely than men to have their orders breached as a result of non-compliance, while men's orders are more likely than women's to be revoked as a result of a further offence (Scottish Government, 2010b). Women are also more likely to breach a DTTO than men (Scottish Government, 2010b).

The difficulties that many women who come into contact with the criminal justice system experience in their lives (Barry and McIvor, 2009) often make it difficult for them to comply with community penalties or indeed to engage with statutory services. Knowledge of the difficulties that women are likely to face in complying with certain penalties (such as fines when there is an evident lack of independent financial means or the lack of appropriate work placements for Community Service Orders) may make sentencers hesitate to impose these disposals. As a result, women are often uptariffed due to sentencers' perceptions of the viability of alternative disposals, rather than as a direct result of the offence itself, thereby challenging concepts of rational justice. Where provisions have been developed specifically for women (i.e. the 218 Centre in Glasgow) there appears to be more opportunity for responding to women's needs and addressing the underlying causes of offending behaviour (see Loucks et al, 2006; Malloch et al, 2008). The difficulties which characterise the lives of many women placed on such initiatives means that not only do they face challenges in meeting the requirements (which are a characteristic feature of supervisory relationships within criminal justice disposals), but workers can also face challenges in exercising the supervisory power that forms the basis of penal supervision and surveillance. The consequence of this can often be that the lesser criminality and greater (identified) needs of women results in their depiction as 'troublesome' given the constraints (of time and resources) experienced by service providers; and in relation to male service users.

Despite the increasing numbers of women given community sentences in the UK and in other jurisdictions in recent years, there has been surprisingly little research into women's experiences of these disposals. Recent research has begun to examine the

operation of specialist provision for women in the community (e.g. Loucks et al, 2006; Gelsthorpe et al, 2007; Hedderman et al., 2008) but there are still relatively few studies of how women are accommodated on, and how they experience, disposals which are used principally with men.

By examining women's experiences across a range of disposals, we highlight the ways in which their ability to comply with community sentences may be hampered by the challenges they have had and continue to experience in their own lives (often deemed as 'chaotic' (Barry and McIvor, 2008, 2010)). Importantly, we also examine some of the structural obstacles which can arise from the operation of political, professional and organisational factors, ultimately hindering women's ability to 'succeed' in fulfilling the obligations of these disposals.

This article draws on research conducted by the authors with women placed on a variety of community disposals in Scotland. It highlights some of the findings identified in interviews with women 'offenders' and agency workers. The latter included criminal justice social workers, drug court staff and project workers while the former included women placed on probation, community service, Drug Testing and Treatment Orders (DTTOs) and those attending the 218 Centre<sup>2</sup>. Attention is given to the experiences of women on what are relatively high tariff sentences, where breach can result in custody. The material outlined here, which we present thematically, highlights some of the challenges in providing community disposals that are appropriate for women and with which women are able to comply.

## **Methods**

The material in this paper draws upon interviews conducted with women subject to various forms of supervision in the community. The majority of the material is drawn from a study aimed at exploring experiences of probation supervision in Scotland from the perspectives of women on probation and social workers responsible for their supervision. In-depth semi-structured interviews were carried out with 27 female probationers whose supervision had recently ended or who were nearing the end of their orders. The interviews, which were tape-recorded and fully transcribed, explored women's perceptions of the purpose of probation and their experiences of supervision, including their perceived needs and expectations of support and the approaches adopted by their supervising social workers. They were conducted in a variety of locations (including women's homes and social work offices) according to the wishes of the women, with care taken to ensure that privacy of the exchanges could be guaranteed. In accordance with the adoption of a feminist approach to research that aims, among other things, to address issues of power in the research context (Stanley and Wise, 1993), all of the interviews were conducted by female researchers who attempted to ensure that the women were made to feel comfortable and in control in the interview situation. Semi-structured interviews were also conducted with 34 experienced social workers (21 female and 13 male) which sought to explore, through a series of open-ended questions, their experiences of supervising women on probation and their views about the effectiveness of different approaches to the supervision of women who offend.

This paper also draws, though to a lesser extent, upon semi-structured interviews conducted with 51 women who attended the 218 Centre in Glasgow on a day and/or residential basis and with project staff at the Centre<sup>3</sup>; with seven women interviewed

as part of a study of women's experiences of community service in Scotland; and with ten women who had been subject to DTTOs (drawn from larger studies of the operation of DTTOs and pilot drug courts in Scotland). With the exception of two drug court interviews (conducted by a male researcher within the court setting), and for similar reasons to those outlined above, all interviews were conducted by female researchers in social work offices, other agency premises or women's own homes.

## **Women's experiences of community supervision**

### ***The complexity of women's problems and needs***

Just as studies in other jurisdictions have indicated (Corston, 2007; Gelsthorpe et al, 2007; Sheehan et al, 2007; Convery, 2009) women on community supervision in Scotland were often identified by practitioners as being more likely than men to present a range of problems and their cases were, as a consequence, regarded as more complex. Linked to this, however, was a view that women were more likely to disclose problems and to seek help to resolve them. As one social worker who was interviewed observed:

*“Male offenders either don't have quite as many complex issues in their life or don't disclose as many complex issues and seem generally less willing to seek the help and assistance they may need.”*

The complexity of women's circumstances and problems meant that they were often perceived by social workers as being in a state of crisis and in need of more emotional support:



*“I am working more intensively with women to keep them alive...I know it sounds melodramatic but sometimes it is as basic as that.”*

Some workers also believed that, because of the complexity of their problems and their need for emotional support, women were much more demanding of social workers' time. This is consistent with Norland and Mann's (1984) argument that women on probation are often perceived as being 'troublesome' because they make *“time consuming demands on agents that tend to be organisationally disruptive”* (p. 126) and because they experience different problems to those experienced by men. In other words, it appeared that women may be perceived as being 'troublesome' when they are, in fact, simply 'different'. This redefinition of 'troubled' women as 'troublesome' appeared, as we shall see, to occur at various points in the criminal justice process, resulting in women's personal difficulties and needs being reconceptualised as public 'risks'.

In addition to seeking higher levels of contact with their supervisors however, female probationers were also thought by some social workers to be more responsive to less formal contact and more likely than men to seek contact with their supervisors on an ad hoc basis as issues arose. Such a view was confirmed by a probationer who observed that *“it would have been nice just being able to pop in rather than having to be there at a certain place and time”*.

Women were therefore viewed by social workers as having, in comparison to men, more - and more complex - problems and needs, as being in greater need of emotional support, and as being more responsive to informal, unstructured contact. This clearly has implications for the types of services and methods of supervision that women are likely to engage with and highlights the inappropriateness of modelling the supervision of women upon interventions and practices that have been developed for men. While the penal supervisory relationship is intended to enforce a number of functions such as mitigation of risk, discipline and punishment (Foucault, 1977) it is clear that women anticipated that it would provide a certain level of support. While workers were generally willing to assist women to deal with some of the challenges which featured in their lives there was clearly a disparity between expectations of the supervisory relationship. In particular, the wider issues which contextualise the lives of women as they encounter the criminal justice system serve to highlight the limitations of the system itself.

### ***Being an 'offender': The significance of stigma***

The gendered impact of 'shame' and 'guilt' is considered by Bartky (1990: 87) who notes that shame "*involves the distressed apprehension of oneself as a lesser creature*"; while guilt "*refers not to the subject's nature but to her actions*". In this respect both experiences have a particular impact on women who, for Bartky (1990) generally have lower levels of confidence and self-esteem than their male counterparts. The stigma that accompanies activities viewed as 'deviant' is likely to have a particularly deleterious impact on women who come into contact with the criminal justice and who are subsequently labelled as 'offenders' (Goffman, 1963;

Falk, 2001). For women, behaviour and self-presentation are factors which are often used as social indicators which define them into, or out of, categories such as 'respectable'. The institutionalisation of 'disrespect and disesteem' described by Skeggs (1997) has particular resonance, not only for the shame and guilt experienced by the individual, but also for the stigma that is deployed on the basis of behaviour and social position. Women who commit crimes are stigmatized on the basis that they have broken social laws; but are additionally stigmatized for breaking gendered codes of 'appropriate' behaviour for women (e.g. Smart, 1992). While women resist gender stereotypes in many ways, they are not unaffected by these expectations and the consequences of failing to conform to them (Malloch, 1999; Boyd, 2004).

Given the life-circumstances of a number of the women respondents, they were reluctant to take on the label of 'offender', attributing their involvement with the criminal justice system to other difficulties in their lives (notably addiction – although drug use itself subjects the individual user to a process of stigmatization; Szasz, 2003). Although some women had previous contact with the criminal justice system as a result of offending, others downplayed their depiction as an 'offender'. Some emphasised the non-harmful nature of their offences:

*"I'm not a dangerous kind of person. I was actually relieved when I got caught ... I knew I had done wrong and I just wanted to get things sorted out so I could start getting on with my life and my kids."*

Others drew a distinction between themselves and those – usually male – whom they regarded as 'real' offenders:

*“I really didn’t like going down to [the social work office] and sitting there. That maybe sounds like snobbery. It’s not. But some of the people that sit in that waiting room! They would scribble on the walls, put their cigarettes out on the carpets and things like that. So I felt it was nice that the only times I did have to go to the office were when I first went ... and occasionally if [social worker] was on duty. So I felt that they understood how I felt about it - how distressing it was for me to go and sit with people like some of the bad offenders. Some used to spit on the carpet. It was totally disgusting.”*

The sense of stigma that they experienced as a result of having been convicted and sentenced by the courts was clear in many women’s accounts of their experiences of supervision. For example, one woman described her feelings on being given a probation order as being *“just pure embarrassed”* but that she *“just had to get on with it though - that’s my punishment”*. Another described her experience of being placed on probation by recounting how *“at first I was terrified. I was terrified, I was mortified.”*

The stigma attached to the process of arrest, conviction and sentencing was felt by a number of respondents. One probationer explained that:

*“Well, when I did it, I knew that I shouldn’t have done it there and then, you know, because, I mean, I’ve lost respect from everyone. It’s just one big nightmare. “*

This could be particularly challenging for women who had experienced difficulties as a result of an addiction. One woman attending a drug court noted:

*“When you come off drugs you’re hallucinating and all sorts of things, and then you’re meeting these people you know four or five months down the line and you’re different and sometimes you get embarrassed about things like that...”*

The very public nature of community service was disliked by a number of the women who had received this disposal. For example, one woman expressed concern about *“people knowing I had committed a crime”* while another said *“I live in a small town, so everyone who worked in the home knew I was doing community service”*. Usually women in agency placements told others at their placement that they were on a community service order rather than withhold this information because they felt that there was a risk that someone else might inadvertently let others in the agency know. One woman, for instance, indicated that her decision to ‘come clean’ with the other workers in a charity shop had been influenced by her concern that someone she knew may come into the shop and say *“Oh, you’re doing community service!”*. The ongoing stigma that follows women (and men) as they attempt to move on with their lives can present a significant challenge (Maruna, 2001; Rumgay, 2004; Thom, 2010).

### ***Focusing on welfare or offending?***

The relatively minor nature of the offences for which many of the women respondents had been sentenced, their relative lack of an established criminal history and the fact that their offending was perceived to be rooted in personal, social and structural difficulties had important implications for what social workers regarded as the appropriate focus of intervention with women made subject to supervision. As one social worker, referring to a case in which a woman had been given a 12 months probation order for stealing sweets for her children, pointed out *“how can you spend a year talking about stealing two Kinder Eggs?”* while another questioned the appropriateness and utility of focusing on offending when women were clearly in crisis:

*“Her husband had a stroke...and they were in homeless accommodation for six months...It wasn’t appropriate when she was living in homeless accommodation in the town for me to be saying “well let’s look at ... your offending”.”*

Practitioners and their clients therefore often believed that an explicit focus on offending was likely to be less helpful; addressing the structural circumstances within which the offending had occurred was seen to be a necessity for change:

*“The crime usually is a result of whatever has been happening in that woman’s life so I think to sit and focus on the offence itself it wouldn’t really do anything: it wouldn’t get anywhere because the offence has usually just been a result of what has been happening. So if you focus on the problems in the woman’s life and the problems that were around that led to the offence, then you are looking at the offence. But*

*to sit down and speak coldly and directly about that actual incident, I don't think it's beneficial."*

A similar sentiment is reflected in one women's account of probation as having been *"more focused on how to get out of the hole I was in rather than how I got there"* and in other women's descriptions of probation as problem- rather than offence-focused, aimed at helping women to address their problems and providing necessary emotional support:

*"She [the social worker] treated it [the offence] as a one-off in her professional opinion ... She was positive that there wasn't any chance of it happening again and she was just looking at how she could help me getting sorted and picking up the pieces."*

Other women suggested that the sentence they had received had been disproportionate to their offence, resulting in a resistance towards intervention and resentment towards authority. As one probationer explained:

*"It wasn't an issue. I mean I kicked a polis and I shouldn't have done and I understand that. But I think two years probation is a wee bit harsh. I think I'd do it again in the same circumstances but this time I'd kick a bit harder."*

Given the contextual issues surrounding women's offending, workers and women occasionally attempted to resist the wider processes of criminalisation or to ameliorate their impact where possible. However, the broader context of sentencing practices and imposition of punishments was generally beyond the locus of influence of workers.

### **Relationships, trauma and abuse**

The significance of relationships for women's lives has been identified in terms of pathways into and out of criminal activity (Bloom et al, 2003). Research has often highlighted the role of male partners in women's offending (e.g. Leverentz, 2006). In a Scottish study of offending and desistance ( Jamieson et al.,1999) women often attributed their initiation into problematic drug use to their relationship with partners who were involved in drug use and associated offending. The initiation of women into drug use was also identified as a pathway to women's offending by professionals (such as police officers and social workers) who observed that women often committed offences (such as shoplifting) or became involved in prostitution to supply both themselves and their partners with drugs<sup>4</sup>.

However, in some cases the influence of male partners on women's offending (and substance misuse) was believed by workers to be more diffuse, through experiences of physical and emotional abuse and financial control or exploitation. As one social worker observed, with most female probationers there was *“usually some man or men in the background somewhere making life a misery for them.”*



The impact of sustained abuse upon women's self-esteem was described by one woman whose drug use and associated offending had resulted in the imposition of a DTTO as having *"knocked all of my confidence out of me"* while another woman on probation described the distressing cumulative effects of abuse:

Another woman on probation

*"I've been abused. I had a lot of bad things with relationships, you know, battered and stabbed and things and cigarettes stubbed out on me and just basically used me. I've actually been in and out of hospital quite a lot...if it wasn't for my probation officer I'd have been dead."*

Abusive relationships could have an impact on women on an ongoing basis. Fear of physical or sexual violence sometimes affected women's ability to comply with court orders. For example, one woman who struggled with the attendance requirements of a DTTO indicated that this was partly due to a man, who had attempted to rape her and whom she believed was continuing to stalk her, having been placed on a similar order and required to attend the same clinic that she had been ordered by the court to attend. Although she acknowledged that other problems in her life had added to the difficulties she faced in complying with the order she also noted:

*"They [DTTO workers] tried their best to give us different times and that was fine but it was always in the back of my mind. Not to do with the*

*DTTO, just my own personal thoughts and feelings. I just couldn't get over it and that's how it was, I just couldn't get around it. (...) A couple of times appointments would run over and there's nothing they can do about that and he would just kind of turn up and I would be in fright, shock, just run away. It wasn't because of the DTTO [that her order was breached and she received a custodial sentence] it was because of him."*

Another woman on a DTTO reported having a relapse (or a breakdown) after a man who had raped her was arrested and charged. He subsequently received a lengthy prison sentence, however the court case proved traumatic for the respondent who noted:

*"That's when – bump - I started doing drugs again big time. It wasn't just starting off with wee stupid bits you know, it was in for the kill this time. It was just like 'I've got nothing to lose, nothing to lose because I've not got anything anyway, so who gives a f\*\*\*?'"*

The problem of ongoing drug use by male partners was also recognised by sentencers in the drug court who believed that women often struggled to become and remain drug-free as a result of pressure from partners (McIvor et al., 2006). This was further illustrated by one woman attending the 218 Centre who commented that she was *"worried about ...the way he [partner] was reacting, because I was getting better and he didn't like it because he was still using"*. However some, like this women who attended 218, outlined how they would attempt to resist this given appropriate support:

*“I split up with my partner because I’ve been getting well and he doesn’t like it because they don’t like you to get strong. Obviously he needed me to feed the habit and I wasn’t prepared to go back out on the street to work anymore”.*

### ***The supervisory relationship***

In contrast to their personal relationships, which women often described as abusive and/or controlling, relationships with their supervisors (social workers or project workers) were usually said to be characterised by openness, trust and a degree of reciprocity and women often reported receiving valued practical assistance and support from them. This included help to access the financial support to which they were entitled, advice on budgeting and support to come off drugs through referral to appropriate medical services.

First and foremost, however, women almost universally alluded to their worker providing a ‘sympathetic ear’ – listening to their experiences and problems and demonstrating empathy. Simply being able to talk through their problems was the most supportive feature of supervision for many women:

*“It was like a therapy to be able to talk about my feelings, about the way things had been. That was basically what we did. We talked and talked and talked.”*

The importance of the relationship between women and their supervisors was often highlighted. Women were appreciative of practitioners who were accessible and responsive and who appeared genuinely concerned about the welfare of their clients. As one probationer explained:

*“I think its knowing that [social worker] is there...I think it’s knowing that [social worker] always reassures you that if ever a problem arises, no matter how big or small, phone, she will always get back to you and she always goes out her way to see you, she always comes across dead [very] caring and concerned.”*

Women on probation often referred to their social workers as being ‘like a friend’. However, the type of friendship to which they alluded was one that was also clearly proscribed by professional boundaries, expectations and requirements (see also Beaumont and Mistry, 1996). As one female probationer explained, her social worker was:

*“... quite professional but also friendly as well without being nosey, if you know what I mean. She’s able to keep within the terms of what she was doing but making you feel she was actually a friend at the same time, but without becoming too nosey or without necessarily making you sort of emotionally dependent on her. She just seemed to have the balance reasonable.”*

Central to the development of positive relationships with their social workers - and linked to the broader stigmatizing potential of 'punishment' in the community - were women's perceptions that their supervisors accepted them for who they were (and not what they had done) and treated them fairly and with respect:

*"The first time I met her I was really on the defensive because I thought "she knows nothing about me, but she knows that I did this" [referring to her offence]. But she did her job as well, like going into all the gory, horrible details that you've got to go into. Even by the end of the first meeting I think we had a lot of mutual respect for one another although I was the one who had offended."*

The importance of social workers being accepting and non-judgemental was also clear when considering the aspects of supervision of which women were critical (see also Sharpe, 2011). Although relatively few women complained about their social workers, those who did often pointed to the social worker either appearing rushed and disinterested or failing to keep pre-arranged appointments. This was interpreted as signalling a lack of concern and respect and could result in resistance by some women:

*"I haven't seen my social worker for three weeks - no four weeks - now and I was supposed to turn up last week and I didn't, because I thought "well, you haven't seen me for three weeks, you've cancelled appointments...." I think it's a two way thing with respect. So I'll go down there afterwards, to see what happens. Do you know what I*

*mean? But it's like, "hold on a minute, I might be on probation but I don't get walked over still by you"”*

The right to be viewed as a competent individual, worthy of respect, was not always experienced by women in the impersonal and hierarchical surroundings of the criminal justice system, where their personal troubles could be redefined in such a way as to render them ‘troublesome’ and justify a criminal justice as opposed to welfare response. As one social worker explained:

*“There’s a woman who I used to have on probation that must have been charged about 70 times for slitting her wrists, and going to the Forth Road Bridge and trying to throw herself off. And the police just got sick and tired, and what they said was, “she takes up a lot of manpower services, she puts other people at risk.”*

Women often felt that they were not listened to, particularly, in the court setting, and attempts to challenge this could have consequences for them. Trying to make their voices heard could often be perceived as inappropriate behaviour on their part, further reinforcing the idea of women offenders as ‘troublesome’. One woman on a DTTO challenged a treatment worker about a decision made regarding her medication. She commented:

*“It did get my back right up and I was cheeky to him [the prescribing doctor] I will admit it and I shouldn’t have been, but it was because he did get my back right up”.*

*Interviewer: “Did that come up at the review?”*

*“He just said it wasn’t acceptable. The addiction worker, she understood where I was coming from but she said ‘you just went about it the wrong way’. I said ‘but he wasn’t listening to me’. She said ‘well he’s definitely not going to listen to you now’”*

Supervising officers could often provide support in this context, an environment which was perceived as highly frustrating to respondents. Indeed, some women had built up such a rapport with their social worker that they felt that to re-offend would betray the trust and effort their social worker had invested in them:

*“It made me less likely to offend because there was no way, I felt there was no way I could let them down, after them being there all that time for me ... we had built up a trust and they trusted me...so I just felt as if, no, no, they’re playing fair with me, I’ll play fair with them.”*

Such a sense of personal loyalty towards their supervisors and associated accountability for their actions was also manifested by the probationers interviewed by Rex (1999).

### ***Gender issues in the supervisory relationship***

The significance that women apparently attached to their relationship with their social worker does, of course, raise questions about the relevance of gender to the supervisory process. In common with previous UK research (e.g. Horn and Evans, 2000) female social workers in Scotland reported being more likely than male workers to be allocated female clients and most female probationers were supervised exclusively by women. In studies of probation in England and Wales, female probationers expressed a preference for a female supervisor (e.g. Mair and May<sup>5</sup>, 1997; Wright and Kemshall, 1994). Female probationers in Scotland often expressed no preference at all, emphasising instead that the social worker's personality and/or expertise was more important than their gender:

*"It's just the same, if they take an interest in you and care about you, it doesn't matter if it's male or female really. I think you can just pick these people out if they're just doing their job and you can pick out the ones that, you know, genuinely care what happens to you."*

However, most women who *did* express a preference made it clear that they would feel more comfortable with a female social worker, usually because they found it easier to discuss personal issues with women or because they thought other women were better able to empathise with them (see also Sharpe, 2011):

*"A man hasn't got a clue. You know what I mean, you get the menopause and they think, "oh here we go again" you know what I mean? No understanding. Whereas a woman knows what another woman is going through."*



As Sharpe (2011) also found, past experiences of abuse made it difficult for some women to trust and communicate openly with men, of whom they had developed a generalised fear and mistrust. As one social worker explained:

*“Some of the women who’ve had really bad experiences don’t want to have anything to do with men - they’re frightened of men, and I think you have to respect that.”*

Although a number of social workers expressed the view that in some cases it might be more beneficial for a female probationer to be supervised by a man who could serve as a non-abusive role model, it was more often believed by social workers and by women themselves that female probationers should be supervised by female social workers, especially if the former had experienced abuse.

More generally, female social workers believed that they were better able than their male colleagues to empathise with women on probation, especially if they had some experience of similar circumstances and problems<sup>6</sup>.

However, perhaps as a result of this ability to empathise and sympathise with their probationers, some social workers – especially women - identified a tendency to become over-involved with their female clients; to over-identify with them and on occasion to become ‘side-tracked’ by the emotional problems presented by women:

*“I think I could have a tendency to get too involved emotionally...I did find it difficult to draw a line and say “no” and “I can only go so far and*

*you need to do some of the running yourself” and that becomes destructive, it really does.”*

*“[I find it difficult] drawing that line and saying “this is their pain or their whatever”. It’s difficult sometimes not to take that home with you.”*

This highlights the extent to which the broader experiences of women involved with the criminal justice system often require consideration, both in terms of identifying, and responding to, the contexts within which a significant amount of female offending actually occurs (Malloch, 2004; Anderson, 2008, Sheehan et al, 2007).

### ***Self-efficacy***

Previous studies of women involved in offending have also highlighted the importance of achieving a sense of self-efficacy and control over their lives (McIvor and Barry, 1998; Loucks et al, 2006). This is likely to be particularly important for women who have been involved in relationships and lifestyles in which they perceive themselves as having very little control; resulting in a sense of powerlessness that is exacerbated by the structural constraints that limit (especially marginalised) women’s access to social justice (Malloch et al, 2008). Some women – though they were very much in the minority - believed that their social workers were insufficiently proactive on their behalf and would have preferred them to take a more directive approach:

*“She gave me ideas and said “why not try this?” but she left the ball in my court. I wanted her to get me something. She’s more in the know.”*

Where women were encouraged and supported to do things for themselves, it appeared that, while this may have been seen as challenging initially, the benefits were longer term. One woman appreciated the support she was getting to do things for herself, commenting that *“they’re not doing things for you but they are making you feel that you can do it”*. while another woman – who would berate herself for failing to complete an unrealistic set of tasks she had set herself – reflected on how staff helped her to place her expectations and achievements in perspective:

*“I’ll come in and I’ll kick myself stupid because I say to myself ‘you’re stupid, you’re thick, you’re useless, you’re worthless...the staff will say ‘realistically a normal person can’t go out in one day and take ten things and fix it all out’”.*

Having the opportunity to talk over issues such as feelings of inadequacy was often viewed as crucial by women with low levels of self esteem:

*“It’s a struggle, even some days you do feel worthless, even some days now I can feel worthless. But you can come in here and you can talk about it and it lets you see things a bit clearer and then you can move on and try and sort whatever it is out, talk to somebody about it”.*

Women appeared to value practical assistance and advice offered by social workers and project workers for the capacity this had to enable them to gain some control over

aspects of their life. At the same time, however, women were often aware of the potential to become dependent upon their supervisors, relying upon them for practical and emotional support that could not be sustained indefinitely. Women often reported gaining self-confidence and self-esteem from their experience of probation and this was an important precursor to increased self-reliance. As one woman put it:

*“She [social worker] was somebody I could talk to about it [experience of abuse], who knew exactly what happened ... An experience like that leaves you feeling as if you don’t exist any more, as if you aren’t worth anything. Talking to people who are outside the situation gives you an estimate of what you’re worth in their eyes which begins to sort of re-establish your value again.”*

Importantly, women often described their experience of community disposals as an empowering process which had given them a renewed sense of self-belief and self-efficacy. Women drew favourable comparisons between how they perceived themselves now and how they perceived themselves when placed on probation, emphasising the considerable personal progress they believed themselves to have made. As one woman explained:

*“They were actually telling me “women are allowed to do this” or “you’re allowed to do that - you’re allowed to have a life” ... These are all things that hadn’t even crossed my mind before. If I hadn’t gone to them I think I might ... have had a breakdown ... I’m a lot stronger now. I used to give in to them [her children] far too easily ... I’m not going to*

*please everyone else because I think that's what they want. What I want is very important."*

Similar sentiments were expressed by the women in McIvor and Barry's (1998) study of probation in Scotland where women emphasised the importance of doing things for themselves albeit with the support and encouragement of their social worker. Making progress, even if only gradually, served further to enhance women's confidence, self-belief and self-esteem .

### ***Barriers to compliance***

Norland and Mann (1984) have argued that women on probation (and in the criminal justice system more generally) are often perceived as being troublesome and that they are, as a result, breached on technical violations more often than male offenders. As noted earlier, women on probation and DTTOs in Scotland are more likely than men to be breached for failure to comply (Scottish Government, 2010b). Female probationers who were interviewed identified a number of factors that had impacted upon their ability to comply with their orders. For example, although they were generally satisfied with the *level* and *quality* of contact they had with their social workers, some women subject to community disposals were critical of the inconvenience of getting to appointments, either because of their timing or the distance or cost involved. As one woman observed, "*Well, because it's in the centre of town...how do you save bus fares, funds to get here if you are unemployed?*"

.”

These challenges were particularly evident in the case of disposals which required frequent attendance, such as DTTOs where women were required to attend for drug treatment, drug testing and court-based reviews and may also have other elements of an order to fulfil.

The sense of inconvenience was, it seems, experienced all the more acutely if the women perceived their social worker to take little professional and personal interest in them:

*“The worst part was having to cycle all the way along the road, they would just say like “I’m here” and then you would have to cycle all the way back again ... I don’t know, I think that was about the worst part, just going along there for totally, like, no reason. Actually, at one point, I felt, like, “well why? What’s the whole point of probation if this is all it’s about?””*

A number of women on community service who had young children identified problems associated with arranging childcare and leaving their children with childminders. Although financial support was available for women to access a registered childminder, most women reported leaving their children with friends or family and particular concerns were expressed about leaving children in the care of *unknown* minders (see also Barker, 1993). Some women on community service reported having experienced absences from their community service work because child care arrangements broke down or as a result of family illness. The use of

informal childminding arrangements meant that at times during their orders women were 'stuck' for childcare, on some occasions making them late for appointments or community service. Even when women's children were cared for by a childminder paid for by the community service scheme this was not necessarily straightforward. For example, one woman explained how an arrangement that had begun well had quickly broken down:

*"... I think, maybe her other clients found out she had a criminal [using her childcare services], and I got dropped like that...one day she didn't appear. And then it was the probation officer that phoned me and said she had to take me off her books. So I was a week off my community service..."*

Although preferences for home or office appointments were not directly discussed with women, those who volunteered a view expressed a clear preference to be seen at home. This was not simply because it was more convenient (especially if the women had young children), but also because it was perceived as less stigmatising than attending the social work office and less likely to bring women into situations in which they might be tempted to re-offend. Wright and Kemshall (1994, p.74) observed that *"despite attempts to make waiting areas more user-friendly some women felt threatened, stressed and excluded when waiting for their officer"*. As one of the women we interviewed explained, the worst thing for her about being on probation was *"...bumping into people in the waiting room, you know, other people that's on drugs and things...I just don't want to get involved."*

Practitioners also identified the difficulties facing women as a result of “*ongoing problems of drug use, poor accommodation, inappropriate accommodation and possibly partners who are still using drugs*”. Indeed, the difficulty with the more stringent disposals is that they tend to require that the recipient is in a relatively stable situation. Those whose lifestyles are deemed ‘chaotic’ through addiction, homelessness or other difficulties can often struggle to comply or may indeed fail to be considered for these available options. As a drug court worker commented:

*“We really need to be looking at people who are in a stable enough position to be able to come in to treatment and that have a fighting chance...what we see a lot of is people whose social situation is very fragile...) and with the best will in the world, much as they may have drug related needs there are just going to be very few cases where people are sufficiently stable to actually commit to the DTTO”.*

## **Conclusions**

As illustrated above, the efficacy of community disposals and how they are experienced by women and workers is always, to some extent, determined by other circumstances which impact on both offending behaviour, and routes out of offending. Statistical breakdowns overall illustrate that non-custodial penalties appear to have a limited effect in reducing women’s imprisonment (Malloch et al, 2008) in the sense that the availability of community-based resources does not determine take-up by sentencers. However, when community disposals are imposed, they do have the



capacity to address a range of issues that can support women to make changes in their lives – providing opportunities to access practical and emotional help.

The experiences of respondents, both women and workers, highlights the importance of dealing with issues, within the context of the supervisory relationship, which are often distinct from the traditional focus on offending behaviour. Indeed, it would appear that many of the difficulties women experience in completing community-based disposals are a direct result of wider circumstances that the criminal justice system will be limited in its ability to respond to. Workers can then be left with the challenge of intervening to address offending behaviour, which may itself be only one of a number of more pervasive issues. While this is also likely to be the case for male clients, women may be more likely to have a wider range of difficulties in their lives and are certainly more likely to raise these issues with workers and to seek help in dealing with them. This clearly has consequences for workers involved in supervising and supporting women – in terms of skills, focus of interventions, criteria for measuring ‘success’ (which need to go beyond measurements of reductions in reoffending) and time as a resource.

While a number of innovative initiatives have been developed in Scotland, notably the 218 Centre, the majority of women who receive a community disposal from the courts will be required to meet the criteria of more traditional interventions (notably probation or community service). As this paper has highlighted – there is considerable opportunity to build on the good practice that often exists within the supervisory relationship. More fundamentally, however, it is important to recognise that community disposals can only engage with one dimension of a broader range of

issues that bring women into the criminal justice system and prevent their exit. Promoting social justice is an equally important goal, albeit one that, in the absence of wider political and structural reform, social workers alone have limited capacity to address.

Understood within this context, while there may be benefits for individual women as they access the resources available to them through the court orders they are required to comply with, they remain subject to a range of assumptions and expectations which underpin women's experiences of the criminal justice system as a whole. In particular, the ideological constructs which determine the focus of penal systems remain a priority for the providers of community disposals, even when they may sympathise with the circumstances of the individual (as many of the professional respondents in this study did). Our findings suggest that in the context of community penalties, the circumstances of women's lives often surpass the pain of state authorised punishment. In these situations workers, who are expected to supervise and support women in relation to their criminality or 'offending' behaviour, are faced with a much wider range of issues that must first be addressed; failure to do so will negate any other form of intervention. In this respect, women can often be defined as 'troublesome' when in fact their circumstances require that much wider social, political and economic issues are faced.

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<sup>1</sup> The Scottish Prisons Commission actually argued for the effective abolition of custodial sentences of less than 6 months but this recommendation was translated in the government's response and in the Criminal Justice and Licensing (Scotland) Act 2010 to a *presumption against* sentences of under 3 months.

<sup>2</sup> 218 is a service combining residential and community-based provision, established in Glasgow to provide a holistic, gender-responsive service to women involved with the criminal justice system, with a particular focus on addressing experiences of addiction and trauma.

<sup>3</sup> Since these interviews focused principally upon experiences of the 218 Centre rather than community supervision more generally, only relevant aspects of these interviews have been drawn upon.

<sup>4</sup> A similar finding was reported by Mckeganey and Barnard (1996) in their study of street sex workers in Glasgow, Scotland.

<sup>5</sup> Interestingly, in this study both male and female probationers expressed a preference for a female probation officer.

<sup>6</sup> Although this can also lead to more punitive attitudes on the part of individual female social workers who may view their own situations in comparison to those of their female clients.